REMARKS

Applicant notes with appreciation the indication of allowance of claims 41-46 and 53-58.

The Examiner is thanked for the courtesies extended to Applicant's representative during the personal interview held November 20, 2006. During the interview, the rejections of the claims over the combination of the Adobe reference, Microsoft reference and the Beretta patent were discussed. Applicant's representative identified several claimed features that are not disclosed or suggested, either individually or in the combination, in the Adobe reference, Microsoft reference or the Beretta patent. These distinctions will be discussed in further detail later.

Claims 22-27, 29-40, 47-52 and 69 have been rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. To address this issue, independent claims 22 and 35 now recite the step of storing the generated color palette in a memory pursuant to the Examiner's suggestion. Claims 47 and 69 have been amended to more specifically recite that the color palette is implemented in a computer.

Applicant respectfully submits that the claims recite subject matter that is both tangible, i.e. the storage of information on a physical structure that is employed in conjunction with a computer, and useful, namely the presentation of selectable colors for use in creating an image on the computer. Accordingly, each of the independent claims recite a statutory process or computer-readable medium. Applicant respectfully requests withdrawal of the rejection of the claims 22-27, 29-40, 47-52 and 69 under 35 U.S.C. §101.

Applicant notes that claims 22-27, 29-40, and 47-52 have not been rejected over prior art. Therefore, Applicant respectfully submits that these claims are in condition for allowance, and notification to that effect is respectfully requested.

Claims 59-69 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of Adobe Systems Inc. (*Adobe Photoshop 6.0 User Guide for Windows and Macintosh*), Microsoft 2000, and further in view of the Beretta patent.

As pointed out in the personal interview, the Adobe reference at page 334 provides the user with the choice to select between either all web-safe colors or all non-web-safe colors. When the user selects one of these options, he or she is presented with a palette that contains only web-safe colors, or only non-web-safe colors. The Adobe reference does not disclose or suggest a color palette containing both web-safe color choices and non-web-safe color choices in respective contiguous areas on the same color palette. It does not disclose a color palette comprising a first contiguous grouping of achromatic colors, a second contiguous grouping of non web-safe chromatic colors, and a third contiguous grouping of web-safe chromatic colors, including blends that are created from the web-safe chromatic colors as recited in independent claims 59 and 69.

The Microsoft reference, as discussed on pages 4, 5 and 8 of the Office Action, discloses grouping achromatic colors in one portion of the color palette separated from the chromatic colors. It does not disclose or suggest a color palette comprising a first contiguous grouping of achromatic colors, a second contiguous grouping of non web-safe chromatic colors, and a third contiguous grouping of web-safe chromatic colors, including blends that are created from the web-safe chromatic

colors. In fact, as pointed out in Applicant's previous response, it teaches the opposite, namely that the web-safe and non-web-safe colors of similar hues are intermingled with one another.

The Berretta patent is incorporated for the disclosure of displaying individual colors in a predetermined order according to color space coordinates such as order of lightness and chroma values. However, the Berretta patent does not disclose or suggest arranging the displayed colors in contiguous groups related to web-safe colors, non-web safe colors and achromatic colors as recited in independent claims 59 and 69. In fact, Figure 6 of Beretta discloses that element 84 is a display of mixed colors and therefore does not display contiguous groups of different types of colors or colors having different properties (e.g., web-safe or non-web-safe) as recited in the independent claims.

As pointed out in the personal interview, the cited portions of Beretta as well as the disclosure at column 16, lines 3-21 regarding Figure 6 of Beretta describe a color wash derived from the colors 87 and 88 that are displayed across the rectangle wash area 84. Therefore, Beretta discloses merely washing the user selected colors together, and not forming achromatic colors, web-safe colors and non-web-safe colors in contiguous groups as recited in independent claims 59 and 69.

As discussed in the personal interview, neither the Adobe reference, the Microsoft 2000 color palette nor the Beretta patent disclose or suggest, either individually or in combination, the arrangement in contiguous groups of achromatic colors, web-safe chromatic colors, and non-web-safe chromatic colors as recited in independent claims 59 and 69.

Also, as discussed in the personal interview, regarding the motivation for making the combination, the Office Action (pages 4-5) asserts that the combination would allow users to better select suitable colors by displaying related colors adjacent one another by applying the "well-known principles of color perception theory that human perception of color is influenced by the effect of adjacent colors." Even if the combination were made for the above reason, a user would not be able to tell whether a color is web-safe or non-web-safe because the colors would be influenced by adjacent colors. This is because the human perception of color is not influenced by whether a color is web-safe or non-web-safe, but by how the color is viewed with respect to adjacent colors.

The skilled artisan at the time of the invention would not have been motivated, by the disclosure of the Adobe reference, to differentiate between web-safe colors and non-web-safe colors in the same color palette because, as the citation to Beretta states, the human vision system would not differentiate between the web-safe colors and the non-web-safe colors, nor does the Microsoft reference or the Beretta reference, individually or in combination, overcome this deficiency in the Adobe reference.

Therefore, Applicants respectfully submit that the applied prior art references, individually or in combination, fail to disclose or suggest all of the features recited in independent claims 59 and 69, in particular, the feature of placing the achromatic colors, the web-safe colors, and non-web-safe colors in three contiguous groupings within the color palette.

It is respectfully submitted that claims 59-69 are in condition for allowance and notification to that effect is respectfully submitted.

Should the Examiner have any questions or believes a telephone conference with the undersigned would expedite the prosecution of the present application, he is invited to contact the undersigned.

Respectfully submitted,

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